



2016 Proposed Resolutions and Policy Statements

102nd Annual Convention
September 12 - 13, 2016

South Dakota Association of County Commissioners

SDACC PROPOSED RESOLUTIONS

SECTION I - Resolutions the committee passed, including resolutions amended by the committee

Resolution #2016-5

DO PASS AS AMENDED

To Encourage the State of South Dakota to Continue Working Toward Medicaid Expansion

WHEREAS, up to 50,000 uninsured South Dakotans may be eligible for health insurance if the state expands Medicaid in accordance with the Affordable Care Act, and

WHEREAS, South Dakota Governor Dennis Daugaard has proposed a plan to expand Medicaid that requires no additional general fund dollars because of a federal government commitment to reimburse for eligible Indian Health Service expenses, and

WHEREAS, insuring up to 50,000 uninsured South Dakotans benefits those individuals directly and indirectly benefit their children and families, their employers, and their communities through increased productivity and an ability to recover more quickly from illness and injuries thanks to receiving appropriate health care, and

WHEREAS, providing eligible individuals with available health insurance reduces the demands placed on counties to provide indigent medical care, now

THEREFORE BE IT RESOLVED, by the Minnehaha County Board of Commissioners that the South Dakota Association of County Commissioners encourages the State of South Dakota to continue working towards Medicaid expansion- by a letter to the SD Governor's Office and SD Legislative leadership.

Supporting Criteria

Justification for the resolution: Expanded Medicaid coverage with positively impact county finances due to a reduced burden on counties to bear the cost of medical care for uninsured citizens.

Counties affected by the resolution: All counties.

Impact of resolution: Reduce county indigent medical costs.

Minnehaha County Commission
July 28, 2016

SECTION II - Resolutions incorporated into Policy Statement.

Resolution #2016-4

DO PASS TO POLICY STATEMENT

To Provide for a Two-Year Study by the South Dakota Legislature of Setting Uniform Statewide Standards for Public Defender Services

WHEREAS, South Dakota counties ability to increase property tax collections year-to-year is limited to growth plus 3% or Consumer Price Index– whichever is less– per SDCL 10-13-35, and

WHEREAS, indigent legal defense is a services counties are obligated to provide to individuals charged with a criminal offense that could result in a loss of liberty, and

WHEREAS, counties currently have little ability to control the costs or volume of indigent criminal defense services that must be provided, and

WHEREAS, nationwide a variety of funding and organizational structures exist to provide indigent criminal legal defense – including all or a portion of the costs covered by state governments, now

THEREFORE BE IT RESOLVED, by the Minnehaha County Board of Commissioners that the South Dakota Association of County Commissioners be urged to support a two-year study by the South Dakota Legislature of setting uniform statewide standards for public defender services.

Supporting Criteria

Justification for the resolution: Counties are statutorily required to provide this service with little ability to control costs or limit exposure.

Counties affected by the resolution: All Counties.

Impact of resolution: Reduce law enforcement-related county expenses.

Minnehaha County Commission
July 28, 2016

SECTION III – Resolutions the committee tabled

Resolution #2016-1

TABLED

Change Conservation District newspaper reporting requirements

WHEREAS, SDCL 38-8-57 requires the county commissioners to publish the annual financial report of the Conservation District in the official county newspaper(s) within thirty days of receipt, and

WHEREAS, the cost associated with the publication is borne by the County, and

WHEREAS, upon survey of the county auditors there are few, if any, counties that comply with this law, now

THEREFORE, BE IT RESOLVED that the Harding County Board of Commissioners request the SDACC to pursue legislation to delete SDCL 38-8-57.

Supporting Criteria

Justification for the resolution: In an email poll of auditors, it was discovered that very few knew this law existed and no one was doing it.

Counties affected by the resolution: All Counties that have conservation districts.

Impact of resolution: Reduce publication costs.

Harding County Commission
July 19, 2016

Resolution #2016-2

TABLED

To Add a New SDACC Policy Statement to Secure Federal Impact Aid Funding in Lieu of Property Taxes on Indian Trust Lands

WHEREAS, Bennett County, South Dakota is in imminent danger of bankruptcy; and

WHEREAS, Approximately 45% of the total population of Bennett County lives on property tax-exempt Indian trust lands; and Whereas: Approximately one-fourth of Bennett County is Indian trust land accounting for approximately 190,259 total acres; and

WHEREAS, All Indian trust lands are held in trust for individual Native Americans by the federal government; and

WHEREAS, Indian people living on Indian trust land have no personal obligation to pay property taxes on these trust lands; and

WHEREAS, Monies derived from property taxes are the majority of funds that provide for county services to all residents of the county; and

WHEREAS, Indian people who live on trust property in Bennett County are residents and citizens of the county. They live here, work here, send their children to school here, vote here, hold public offices here, recreate here and are part of the local community; and

WHEREAS, Indian people who live on trust land consume county public services the same as any other county citizen; and

WHEREAS, Bennett County is obligated to provide county services to all residents of the county including Indian people living on trust lands; and

WHEREAS, The federal government pays no compensation, what-so-ever, to Bennett County for public services rendered to Indian people; and

WHEREAS, A Supreme Court ruling in 1831(Cherokee Nation versus Georgia) determined that the federal government is responsible for all Indian peoples wants and needs; and

WHEREAS, The population of Bennett County is 3,431 and approximately one-half of the county's population is Native Americans. Only 853 citizens of Bennett County are private land owners and pay local property taxes. The burden on these tax payers is disproportionate, inequitable and overwhelming; and

WHEREAS, The economy of this rural county is agricultural and there are limited jobs available for the number of people living here and it is proven that unemployment contributes to poverty, alcoholism, drug use, violence and crime; and

WHEREAS, The federal government encourages Indian people to live here with subsidized housing and social programs in spite of the limited opportunity for employment. Most Indian people with marketable skills find employment in the county; however, unemployment at 7% is normal and many people are not looking for work; and

WHEREAS, Crime is increasing rapidly due to unemployment, alcoholism, and drug uses. Five years ago Bennett County was housing an average of 7 prisoners daily. Currently, the average is 17 prisoners per day at \$50/day. Jail costs have gone from \$216,302 to a projected \$335,250 for the 2016 budget; and

WHEREAS, Bennett County has traditionally had a high per capita crime rate and is one of the most violent counties in South Dakota. Martin, SD is the third most dangerous town in South Dakota (Road Snacks, FBI Data) Martin is the smallest town to make the top ten in South Dakota. It earned its spot due to a recent increase in violent crime. Besides that, property crime rates have quadrupled in recent years; and

WHEREAS, Bennett County is paying over approximately \$100,000 per year for court appointed attorneys because Bennett County has one practicing attorney that resides in the county and there is a need for so many attorneys because of the amount of crime; and

WHEREAS, Bennett County spends an additional \$80,000 for incarceration for juveniles at \$295/day plus deputy overtime, mileage and administrative costs; and

WHEREAS, The current annual real estate property taxes for Bennett County is \$3 million with \$1.8 million to the County, \$1.08 million to the school district and \$157,400 to the City of Martin; and

WHEREAS, The property tax loss due to trust lands in Bennett County is estimated at over \$1million annually; and

WHEREAS, The federal government is effectively meeting its financial obligation on Indian reservations, but has abdicated its financial responsibility to counties with substantial Indian trust lands adjacent to reservations; and

WHEREAS, The county has opted-out of the State imposed property tax freeze for \$350,000 for the next 5 years. The measure is a temporary stop gap measure; and

WHEREAS, The 853 property owners in the county will be disproportionably and unfairly impacted by the proposed property tax increase; and

WHEREAS, Bennett County remains in danger of bankruptcy should any future property tax opt-out fail.

THEREFORE, BE IT RESOLVED, The Bennett County Board of Commissioners requests that a new Policy Statement be added to the SDACC Policy Statements to read as follows: SDACC supports lobbying the federal government to demand that the Congress of the United States live up to its obligations under the Supreme Court decision in Cherokee Nation versus Georgia, 1831, and provide funding adequate to fund the county services provided to and for Indian people living on trust lands in South Dakota Counties, if not in a direct payment of property taxes, then in some form of Impact Aid based on the trust land population in the county similar and to Impact Aid for Schools.

Supporting Criteria

Justification for the resolution: Counties in jeopardy of going bankrupt providing mandatory services.

Counties affected by the resolution: All Counties that have Indian Trust Lands.

Impact of resolution: Support adequate funding for county services

**Bennett County Commission
July 20, 2016**

Resolution #2016-3

TABLED

To Provide State Reimbursement to Counties for Incarceration of Inmates Waiting More Than One Week in County Custody for a Pre-Sentence Evaluation Prior to Transfer to a State Facility

WHEREAS, a percentage of inmates in the Minnehaha County Jail have been convicted of a criminal offense that will result in a penitentiary sentence and are housed pending a pre-sentence report and transfer to the SD Department of Corrections, and

WHEREAS, completing pre-sentence reports and transferring convicted inmates to state custody often takes six weeks or more, and

WHEREAS, the current timeframe for moving convicted inmates set to be transferred to state custody inflicts a negative impact on Minnehaha County's ability to fully utilize the jail facility to the county's best interest, now

THEREFORE BE IT RESOLVED, by the Minnehaha County Board of Commissioners that the South Dakota Association of County Commissioners be urged to support legislation that provides for the reimbursement of Counties by the SD Department of Corrections for the daily rate of housing inmates more than one week who have been convicted, are awaiting a pre-sentence evaluation, and will be transferred to a state correctional facility.

Supporting Criteria

Justification for the resolution: The timely transfer of inmates convicted of crimes resulting in a penitentiary sentence reduces county costs and eases crowding in county facilities. This provides an incentive to the state to complete the pre-sentence report process in a short amount of time.

Counties affected by the resolution: All Counties that operate a jail facility.

Impact of resolution: Reduce jail-related county expenses.

**Minnehaha County Commission
July 28, 2016**

SDACC POLICY STATEMENTS

1. SDACC continues to support the “Right to Know” legislation for the protection of all emergency response personnel who deal with hazardous materials. *(1991)*
2. SDACC continues to oppose all legislative efforts to repeal or limit the county wheel tax option as is currently allowed in SDCL 32-5A. *(1991)*
3. SDACC supports and endorses changes in state law that would enable the enactment of local ordinance authority with sufficiently strong enforcement powers to provide an immediate deterrent against contamination of public groundwater resources. *(1991)*
4. SDACC supports ongoing efforts to acquire legislative support for the use of Federal Aid Secondary (FAS) Funds for periodic resurfacing and resealing of Federal Aid Secondary roads. *(1991)*
5. SDACC support and encourage cooperation between the county weed supervisor, the state weed supervisor, and the federal NRCS office for the control of noxious weeds on lands receiving federal subsidies; specifically that the NRCS Office initiate a cost share program to provide chemicals for control of noxious weeds throughout the state of South Dakota. *(1991)*
6. SDACC supports legislation to increase the state gas tax, vehicle registration fees, or motor vehicle excise tax to be distributed to the counties. *(1991)*
7. SDACC supports and encourages changes in state laws or rules to permit an ambulance driver and one Emergency Medical Technician (EMT) to staff an ambulance in non-emergency transfer situations. *(1991)*
8. SDACC will continue to support the South Dakota Noxious Weed law requiring that Canada thistle, Russian Knapweed and Leafy Spurge be controlled because of the potential danger involved with the establishment and spread of these weeds. Others on the list are perennial sow thistle, hoary cress, purple loosestrife, salt cedar. Definition (5) “Control” the prevention or limiting of the growth, spread, or development of weeds or pest”. *(1991)*
9. County governments demand their rights under federal regulation to become involved in the federal land use planning process and begin to protect their counties from economic damage; and county governments require the input of land owners, permit holders, lessees and all other people who are impacted or potentially impacted by the federal land use planning process. *(1991)*
10. Counties shall defend and demand the protection of all mandated rights to protect personal and private property rights; and when any personal or private property is taken for the good of the county by any branch of government, the county government must require by law that a Takings Implication Assessment (TIA) be completed prior to the takings and just compensation be paid expeditiously to the injured party. *(1991)*
11. SDACC supports that federal Indian policy must work to reduce conflict among tribal, state and local governmental problems, and that Congress establish an ongoing, federal, non-judicial conflict resolution procedure to remedy intergovernmental conflict. *(1991)*
12. SDACC goes on record as opposing the combining of any counties within the state of South Dakota by state mandate. *(1991)*
13. SDACC will form a coalition with other entities in the state to implement the increase of vehicle registration fees in South Dakota to ensure a continuous funding source for construction and maintenance of our county/state highway system. *(1993)*

14. SDACC encourages the South Dakota legislature to examine the costs of problems of alcohol abuse and implement a tax on liquor sales to assist counties with jails, law enforcement and detox centers. *(1994)*
15. SDACC at each meeting of the members of the Association and affiliated county groups shall conduct an evaluation of the meeting's content, the facility, and any other information as determined by the organization's executive board to be used as a guide for planning future meetings. *(1996)*
16. SDACC will actively work with the legislature and the Governor to provide solutions to any problems that may arise from the needed property tax relief program. *(1996)*
17. SDACC supports actions to actively and vigorously protect counties' right to appeal any adverse ruling as it pertains to counties' authority to zone animal confinement operations. *(1997)*
18. SDACC will support the full participation of South Dakota in the federal welfare program as a means to serve working families to protect our children and to offer property tax relief to the taxpayers of South Dakota. *(1997)*
19. SDACC opposes any limitations or restrictions on the powers of county governments to develop or implement land use regulations such as zoning ordinances. *(1998)*
20. SDACC continues to support planning & zoning legislation that will encourage uniformity between county and municipal planning and zoning procedures and reduce ambiguities within the adoption process, enabling counties to more effectively adopt and administer their comprehensive plan, zoning regulations and subdivision regulations. *(1998)*
21. SDACC opposes any attempt to mandate consolidation of E-911 service centers and any attempt to remove E-911 surcharge revenue from county government. *(1999)*
22. South Dakota Association of County Commissioners supports the position that County Clerk of Courts offices be required to remain open a minimum of four hours per day for a five day work week excluding holidays. The SDACC should work with the UJS and the legislature's Joint Appropriations Committee to provide adequate funding to have the Clerk of Courts office open a minimum of 4 hours per day for a 5-day work week and to allow counties to contract with the UJS, if necessary, to provide this level of service. *(2001)*
23. SDACC supports legislation that would require operators of sand, gravel and other construction aggregate mines to sign a haul road maintenance agreement with the affected local jurisdictions prior to commencement of hauling operations. *(2001)*
24. SDACC opposes any legislation that would increase the assessment per head for cattle or sheep or any other changes in county assessment factors that would increase or substantially shift the annual assessments currently being paid by the individual counties for funding animal damage control, including an assessment based on land area. *(2001)*
25. SDACC supports legislation, which defines authorized activities and specifically prohibits unauthorized activities within public highway rights-of-way. *(2001)*
26. SDACC supports the concept of developing a common statewide radio system for emergency and public safety communications and will encourage implementation of such a system if the selected radio platform is compatible with existing equipment and allows maximum utilization to be made of existing hardware and equipment so costs are held to a practical level. *(2001)*
27. SDACC supports the mandatory implementation and operation of minimum technical, operational and procedural standards for public safety answering points (PSAPs) only if a 5-year timetable for implementation is provided and an additional specific source of funds for implementation are made available. *(2001)*

28. SDACC supports legislation to require that all of the civil penalties collected for overweight vehicles be deposited in the county treasury for use by the county Road and Bridge Fund. (2001)
29. SDACC supports legislation that would permanently resolve the wireless telecommunications taxation issue by appropriately taxing wireless telecommunications companies and distributing the tax revenues in such a manner that counties will receive at least as much as they would have received under the previous central assessment process with continuing growth based on service growth and inflation. (2001)
30. SDACC supports the granting of variances or special use permits, under county zoning ordinances that include procedures and guidelines for granting such variances or special use permits and that such actions are administrative functions, not legislative functions, pursuant to SDCL 7-18A-15.1, and are, therefore, not referable to a public vote. (2002)
31. SDACC encourages the Governor and the Legislature to assist Pennington County and Rapid City in their continuing efforts to retain a major employer in western South Dakota and to assist financially the "Save Ellsworth" committee that has been working hard for many years to keep Ellsworth Air Force Base a viable military facility. (2002)
32. SDACC supports legislation that would allow counties to retain all sales tax revenue that is collected on county fairground operations. This revenue would be budgeted for maintaining and improving facilities on the fair grounds. (2002)
33. SDACC supports elimination of the requirement that county auditors must levy an additional tax levy each year for the school portion of any taxes that were abated by county commissioners during the previous tax year, as the original tax was determined to be illegal or not collectible in some manner in order to be abated. (2002)
34. SDACC supports the requirements of the Help America Vote Act of 2002 and urges the federal government to fully fund its financial commitment contained in the Act to assist local government in complying with the provisions of the Act. (2003)
35. SDACC opposes any legislation that would further restrict counties' allowable un-obligated cash balances or reserves or that would require the preparation of detailed financial statements and cash balances at times other than the end of a county's fiscal year. (2003)
36. SDACC supports a sales and use tax on goods and services and a gross receipts tax on lodging, alcoholic beverages, prepared food and admissions provide outside the corporate boundaries of municipalities to be implemented in the same corresponding manner as the municipal taxes. (2003)
37. SDACC supports any effort to repeal the property tax cap. (2004)
38. SDACC supports the state's agricultural industry's efforts to meet the challenges and demands of an ever-changing marketplace. (2004)
39. SDACC requests that the South Dakota Department of Transportation review and change the state policy on road closures due to adverse weather conditions. (2006)
40. SDACC encourages all counties to enact a wheel tax as a viable revenue source pursuant to SDCL 33-5A. (2007)
41. SDACC continues to support the effort of the State 9-1-1 Stakeholders Group to increase the 9-1-1 fees pursuant to SDCL 34-45-4. (2007)
42. SDACC opposes mandatory State and Federal Animal Identification but does support voluntary implementation. (2007)

43. SDACC calls upon the South Dakota Governor and State Legislators to implement the following changes to bring harmony within the livestock industry:
- 1) Brand Board representation and brand protection for all producers, processors, marketing agents and lending institutions through the revision at the current South Dakota State Brand Board by providing representation through geographical districts.
 - 2) Seek the most thorough and efficient method of administering South Dakota Brand law including the use of private organizations or enterprises. (2008)
44. SDACC requests the South Dakota State Legislature to permit South Dakota Counties to increase their previous tax request by CPI or 3%, whichever is greater. (2010)

SDACC POLICY STATEMENTS DELETION AND CORRECTION LIST

Deleted effective 09-20-2006 – Originally adopted in 1991

SDACC endorse the policy that all legislation affecting county budgets become effective January first following a legislative session, with the exception of emergency legislation. **(You can also ask for delayed implementation. I would suggest this be moved to the delete list. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1993

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) prohibits counties from maintaining a total balance of more than three years annual apportionments and from transferring any such funds to another county. Therefore, the SDACC requests a return to the prior regulations allowing South Dakota counties to loan or borrow such apportioned funds. **(I would suggest this be moved to the delete list. This Act has been replaced with a new program which is called SAFETEA-LU. The emphasis is on highway safety and was implemented by 109th Congress in Aug 2005. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1995

SDACC supports the SDACC's participation in the Juvenile Justice and Delinquency Prevention Act grant program for housing and transporting juvenile offenders. **(This grant program has been closed. I would suggest this be moved to the delete list. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1997

SDACC will assist and support the Association of State's Attorneys in their efforts to amend SDCL 23A-40-7 to permit counties the ability to contract with attorneys licensed to practice law in South Dakota for the representation of indigent persons. **(This can be done now, I would suggest move it to delete list. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1998

SDACC will actively work with the Association of States Attorneys, the UJS, the legislature and the Governor to develop solutions to the rapidly escalating costs of providing legal representation to indigent persons, including imposing limits on the number of attorneys and expert witnesses and the fees that they are paid, establishing a statewide public defender's office or otherwise capping the total amount of indigent legal costs which counties are required to pay annually both individually and collectively. **(I would suggest this would go to the delete list. – Bob Wilcox)**

Correction effective 09-20-2006 – Originally adopted in 2002

SDACC supports the granting of variances or special use permits, under county zoning ordinances that include procedures and guidelines for granting such variances or special use permits and that such actions are administrative functions, not legislative functions, pursuant to SDCL 7-18A-15.1, and are, therefore, not referable to a public vote. (Deleted Hutchinson and Bon Homme County Commissioners – per Resolutions Committee)

Deleted effective 09-20-2006 – Originally adopted in 2003

SDACC supports the position that the Board of County Commissioners should make the determination of whether to file and collect liens for the costs of prisoner confinement or whether to waive in whole or in part the filing and collection of said liens, as contemplated by SDCL 24-11-45 and 24-11-45.1, and opposes the issuance of blanket waivers by judiciary. **(The statute is clear “If, after considering the prisoner’s net income, net worth, number of dependents, and existing obligations, the judge who sentenced the prisoner to jail determines that the prisoner is unable to pay, the judge may waive all or part of the payment for the cost of the inmate’s confinement” I would suggest this be moved to the delete list. – per Bob Wilcox)**